From: Robert L. Scala
To: Microsoft ATR
Date: 1/23/02 10:41am
Subject: Microsoft Settlement

Dear Justice Department,

I believe that the proposed Microsoft Settlement falls short of its goal of restoring comptition to the operating systems and middleware markets.

I have been a software engineer for 22 years, and have watched this nascent industry go through many changes. One of the distressing developments is software vendors' use of their products as agents to influence customers' future purchases. This is similar but not identical to electric razors working better with "compatible" razor blades, thus influencing future purchases. The difference is that while other companies can easily produce competing razor blades, software is so complex that producing a compatible product can be impossible.

I have been frustrated by the proprietary protocols of many software products produced by many companies over the years, not just Microsoft. But those products were all vulnerable to competing products that sold both razor and blade. But with Microsoft's monopoly on operating systems and office software, effective competition is impossible. If microsoft makes a better razor, that's fine, as long as others can compete to make a better blade.

The problem I see with the proposed settlement is that in some ways it also acts as an agent to ensure that customers purchase more Microsoft products. This may sould like a bit of a stretch, but the fine print may grant Microsoft broad powers, such as certifying the authenticity and vitality of a competitor (III.J.2.c) before providing that competitor with information required in other sections of the agreement. This settlement stinks. Like the Trojan Horse, it looks good on the outside, but the details make it ineffective, and give Microsoft some powers it did not have in the first place.

It's time that the software I buy stops working against me. That's what I hoped from this agreement. The whole agreement needs to be tightened up. In particular:

P.III.A This section should include a prohibition against retaliation against OEMs that supply a single non-Microsoft operating system on their products. As a customer, I would like the option to purchase a computer from a major vendor with a non-Microsoft operating system, without also purchasing Windows.
I believe that this section misses the mark because dual-boot machines are niche-market items and not a threat to Microsoft's operating systems monopoly. It is the single-boot, non-Microsoft machines that challenge this monopoly.

P.III.J.1.a These exceptions should be eliminated, as true security does not depend on the obscurity of the protocols. Secure systems, and the trust of the general public, are better served by using only published and well documented encryption systems.

P.III.J.2 This is the big one. This provides Microsoft the vehicle to withhold APIs and interoperability protocols from, for example, vendors of

free software. Since recently Microsoft has declared Linux the single biggest threat to Windows, it is strange that Microsoft will be allowed to shut out this important segment of the competitive landscape.

I don't see any added burden to Microsoft if they are required to put the APIs and interoperability protocols in the public domain. That way their main rivals will be able to compete fairly in their effort to provide customers better software. And isn't this what the whole Settlement Agreement is all about?

I know little about antitrust law, so I can't comment on the details of this antitrust case or the appropriateness of the proposed remedy. But I know software, and I'm sure that if the goal of the proposed remedy is to restore competition to the software industry, it will fail.

Sincerely yours,

Rob Scala

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